

MINUTES OF THE CITY OF BURLINGTON
CITY COUNCIL MEETING
JANUARY 4, 2011

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on January 4, 2011, at 7:00 p.m.

Mayor Ronnie K. Wall presided

Councilmembers Present: Mayor Wall, Councilmembers Huffman,
Butler, Ross and Faucette

Councilmembers absent: None

Harold Owen, City Manager: Present

Robert M. Ward, City Attorney: Present

Jondeen D. Terry, City Clerk: Present

INVOCATION: Councilmember Jim Butler

REPORT: Process for Issuing Revenue Bonds - Mr. Ted Cole,
Davenport & Company LLC

Mr. Ted Cole introduced Mr. Bob High, Davenport & Company, Inc. Mr. Cole presented an overview of the revenue bond transaction that the City closed on recently. He stated that funding would be provided for capital improvements to the South Burlington Waste Water Treatment Plant, the Stony Creek Dam project, the Lake Cammack Dam project and for refinance existing Certificates of Participation (COPS) that were issued in 2004. Mr. Cole reviewed the financing process which began in February 2008. He explained that since the City had never issued Revenue Bonds, it needed to obtain initial credit ratings for the planned water and sewer bonds. Mr. Cole stated that Davenport worked with the City to develop a comprehensive credit rating presentation to share with the rating agencies that included a historical background on the demographic, economic, financial, and debt profile of the City and the enterprise system along with

highlighting the strengths of both the City's General Fund and the enterprise system. The rating analysts presented their findings and provided the City with its ratings. The City received strong initial credit ratings on the enterprise system from both Moody's at Aa3 and S&P at AA.

Mr. Cole said the bonds were priced on December 14 and 15, 2010. He said the interest rate was 4.13 percent fixed and locked in which was a good rate.

ADOPTION OF AGENDA

Upon motion by Councilmember Faucette, seconded by Councilmember Ross, it was resolved unanimously to adopt the agenda.

CONSENT AGENDA:

ITEM 1:

- A) To adopt an ordinance requiring the demolition of a building located at 902 Harris Street.

11-01

ORDINANCE REQUIRING THE DEMOLITION OF A HOUSE LOCATED AT 902 HARRIS STREET IN THE CITY OF BURLINGTON

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NC:

Section 1. That the house located at 902 Harris Street and owned By Lost Souls Ministry, Inc. has been found by the Building Inspector to be in such a dilapidated state of disrepair with substandard conditions such as to be dangerous to life, health and other property and constitutes a fire or safety hazard to the residents of the City of Burlington.

Section 2. That the owner of said property has been duly notified after *Complaint and Notice of Hearing* have been duly held by the Building Inspector to demolish and remove the said house above mentioned and the owner has failed to obey such order.

- Section 3. That this Council has found and does hereby find that the Building Inspector has complied fully with the provisions of said Chapter 14 of the City of Burlington Code of Ordinances; and, that after careful review of the findings of the Building Inspector, the Council has found and does hereby find and determine that the house in question is in such a dilapidated and substandard state of disrepair as to constitute a fire or safety hazard and is dangerous to life, health and other property; and, that the owner of said house has failed to have the house demolished and removed; and, that all proceedings of the Building Inspector are hereby incorporated into and made a part of this ordinance by reference.
- Section 4. That it is, therefore, ordered that the Building Inspector proceeds with the complete demolition and removal of said house immediately.
- Section 5. That the City Tax Collector is hereby directed to place on the City's tax records all costs incurred as a result of the demolition and removal of the house named above and such costs are to be collected in accordance with the applicable laws.
- Section 6. That subject to Section 10 hereof, the demolition and removal of said house shall be completed within sixty (60) days from the date hereof.
- Section 7. That in the event there shall be any excess funds arising from the salvage and resulting from the demolition and removal of the house mentioned, after paying all costs connected with such demolition and removal, any such balance remaining shall be deposited in the office of the Clerk of Superior Court of Alamance County, NC, by the Building Inspector to be secured in such manner as may be directed by the said court and disbursed by the court to the person or persons found to be entitled thereto by the final order decree of such court.
- Section 8. That subject to Section 10, hereof, this ordinance shall constitute a final order or condemnation and demolition and removal of such house.

Section 9. That the contract for demolition shall be awarded to the approved bidder subject to the criteria set forth in the City's Request for Proposals Building Demolition form.

Section 10. Said ordinance shall be effective ten (10) days from this date.

Upon motion by Councilmember Butler, seconded by Councilmember Ross, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARING:

ITEM 2: REZONE PROPERTY - ASSISTED LIVING FACILITY - GRAND OAKS BLVD:

Mayor Wall announced that a public hearing had been scheduled to consider rezoning from R-15, Residential District, to CO-I, Conditional Office-Institutional District, to allow the development of an assisted living facility. The property is located on the south side of Grand Oaks Boulevard approximately 1,100 feet east from the corner of Grand Oaks Boulevard and Kirkpatrick Road as shown on Alamance County Tax Map 3-22D, a portion of Lot 34, consisting of 4.05 acres.

Planning and Economic Development Director Bob Harkrader stated that this was a conditional rezoning that was unanimously approved by the Planning and Zoning Commission. Mr. Harkrader said he appreciated the assistance he received from North Carolina Department of Transportation (NCDOT) District Engineer Chuck Edwards, Fire Chief Jay Smith and Deputy Chief Michael Willets regarding access for emergency vehicles to the proposed assisted living facility.

Mr. Daniel Dorn with Smith Packett, representing Alamance AL Investors, LLC, Roanoke, VA, gave a brief overview of the proposed assisted living facility. Mr. Dorn stated that this facility would consist of 94 beds and that it was a good location because it would be in close proximity to the hospital. He said the facility would be single story and would have a residential feeling. He stated that the project cost totaled over \$7 million and would be managed by Meridian Healthcare, LLC, Hickory, NC. He stated that the facility would require 62 full-time positions. Mr. Dorn introduced Mr. Scott Brown and Mr. John Bennett, Timmons Group, and Mr. Hunter Trefzoer, Smith Packett.

Councilmember Faucette asked if there would be one entrance to the facility and was told that there would be only one driveway.

Mr. Dorn stated that lots of work had gone into the design of the median to allow emergency vehicles access to the facility.

Mr. Harkrader stated that only one full median cut was allowed which would provide a left over in the median on the new Grand Oaks Boulevard extension. The new proposed left over would provide direct access into the facility.

Upon motion by Councilmember Ross, seconded by Councilmember Butler, it was resolved unanimously to close the public hearing.

Councilmember Ross moved for the adoption of the following ordinance:

11-02

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property for Assisted Living Facility)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from R-15, Residential District, to CO-I, Conditional Office-Institutional, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the south side of Grand Oaks Boulevard approximately 1,100 feet east from the corner of Grand Oaks Boulevard and Kirkpatrick Road as shown on Alamance County Tax Map 3-22D, a portion of Lot 34, consisting of 4.05 acres.

Section 2. That the rezoning from R-15 to CO-I is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Home for the ill or aged/assisted living facility.

Development Condition

Portion of access isle and parking in the rear may encroach 40 feet into the landscape buffer, if necessary.

Section 3. This property shall be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Faucette, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Wall, Huffman, Butler, Ross and Faucette.

NEW BUSINESS:

ITEM 3: ADOPT RESOLUTION - AGREEMENT - ALLTEL COMMUNICATIONS

Mayor Wall announced that the City Council would consider adopting a resolution authorizing the amendment to the water tower attachment communication site agreement with Alltel Communications, LLC, /Verizon Wireless in accordance with provisions of North Carolina General Statute 160A-272 and to authorize the execution of the First Amendment to Water Tower Communication Site Agreement in order to make certain changes to its equipment on the water tower located at 1108 Race Street.

Public Works Director Nolan Kirkman explained that the amendment edited the original agreement with Alltel Communications, LLC, d/b/a/ Verizon Wireless in accordance with

provisions of NCGS 160A-272. He stated that the amendment allowed the tenant to make certain changes to its equipment on the water tower. Mr. Kirkman stated that the City also has agreements with Clearwire but that it was not requesting any changes. Mr. Kirkman stated that the City had a structural analysis done and that it showed there was capacity on the tower.

Mayor Pro Tem Huffman moved for the adoption of the following resolution:

11-01

RESOLUTION BY THE CITY OF BURLINGTON AUTHORIZING THE AMENDMENT TO THE WATER TOWER ATTACHMENT COMMUNICATION SITE AGREEMENT WITH ALLTEL COMMUNICATIONS, LLC, D/B/A VERIZON WIRELESS IN ACCORDANCE WITH PROVISIONS OF NCGS 160A-272.

WHEREAS, on May 17, 2005, the City of Burlington leased to Alltel Communications, LLC D/B/A Verizon Wireless certain City-owned surplus real property located at 1108 Race Street, Burlington, NC 27217, for the construction of a communications facility.

WHEREAS, as authorized by the City Council on December 21, 2010, and as published on December 23, 2010, in the Times-News, proper notice was given in accordance with NCGS 160A-272 of the City of Burlington's intentions to amend the Water Tower Attachment Communication Site Agreement to allow Alltel Communications, LLC, D/B/A Verizon Wireless to modify its equipment located on the site more particularly described as follows:

Beginning at an existing iron pipe on the northern right-of-way of Race Street, said point being the southwest corner of Burlington Industries, Deed Book 327, Page 145, Alamance County Registry, thence along said right-of-way South 67°08'41" West, 173.21 feet to an existing iron pipe, thence North 82°06'19" West, 16.88 feet to a point on the eastern right of way of Loy Street; thence along said right-of-way North 36°51'19" West, 10.00 feet, thence North 05°23'41" East, 204.30 feet to a point on the southern right-of-way of Southern Railroad, thence along said right-of-way South 66°01'19" East, 137.00 feet to an existing iron pipe, thence a line with said Burlington Industries South 22°41'19" East, 98.38 feet to the point and place of beginning, being all of City of Burlington, Deed Book 339, Page 207, Alamance County Registry, and containing 0.56 acres, more or less.

WHEREAS, Alltel Communications, LLC D/B/A Verizon Wireless proposes to amend the original Agreement by replacing Exhibit C (Site Plan and Equipment List) with Exhibit C-1, attached hereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGTON DOES HEREBY RESOLVE that said Water Tower Attachment Communication Site Agreement with Alltel Communications, LLC, D/B/A Verizon Wireless is amended to allow for the modification of the equipment located at 1108 Race Street, Burlington, NC as more particularly described above and in accordance with NCGS 160A-272.

AND IT IS FURTHER RESOLVED that this amendment to the Water Tower Attachment Communication Site Agreement shall become effective upon the adoption of this resolution by the City Council of the City of Burlington and the execution of the said amended Water Tower Attachment Communication Site Agreement by the Mayor and the City Clerk of the City of Burlington.

This the 4th day of January 2011.

Exhibit C-1

Four (4) Decibel DB844H80E-XY antennas @ 147'

Two (2) Antel LPA-70063-8CF-EDIN antennas @ 147'

Coax lines not to exceed 1 5/8" in diameter

Together with Tenant's equipment shelter and/or cabinets and related ground equipment within Tenant's leased Premises.

The foregoing resolution was seconded by Councilmember Butler, and it was passed unanimously.

PUBLIC COMMENT PERIOD

There were no public comments.

CITY COUNCIL COMMENTS

Councilmember Butler said the bond rating was impressive and that it reflected stable and solidified operations as a city and the business-like approach that the City takes with the Water and Sewer fund. He said staff was to be commended.

Mayor Wall announced that the City Council Retreat would be held on January 27, 2011, at 8:30 a.m. at the Kernodle Senior Center.

Mayor Wall commented that the audit report was very positive and that staff was to be commended for a job well done.

Mayor Wall said legislative priorities were due to City Manager Owen on January 13, 2011.

Councilmember Ross stated that he had received positive comments in reference to the Street Department keeping the roads clear during the Christmas holidays. He stated they did a fantastic job.

Mayor Wall read a letter from young Madison Baker concerning someone abusing an animal and how important it was to respect animals and take care of them.

ADJOURN:

Upon motion by Councilmember Faucette, seconded by Councilmember Butler, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk